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 8 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
 9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
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11 In the Matter of the Accusation Against: 12 CECIL EVERETT OAKES, JR. 400 Miller Creek Road 13 San Rafael, CA 94903 14 Physician's and Surgeon's Certificate No. C43319 15 16 Respondent.	Case No. 03 2000 110923 DEFAULT DECISION AND ORDER [Gov. Code, §11520]
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 18 FINDINGS OF FACT

- 19 1. On or about June 24, 2002, Complainant Ron Joseph, in his official
 20 capacity as Executive Director of the Medical Board of California, Department of Consumer
 21 Affairs, State of California, filed Accusation No. 03 2000 110923 against Cecil Everett Oakes,
 22 Jr. (Respondent) before the Division of Medical Quality (Division).
- 23 2. On or about October 11, 1955, the Medical Board of California issued
 24 Physician's and Surgeon's Certificate No. C43319 to Respondent. The Physician's and Surgeon's
 25 Certificate expired on April 30, 1999, and has not been renewed.
- 26 3. After the expiration of his physician's and surgeon's certificate,
 27 Respondent continued to practice medicine, including the issuance of prescriptions, without a
 28 valid license.

1 4. On or about June 24, 2002, Brenda Allen, an employee of the Medical
2 Board of California, served by Certified Mail a copy of the Accusation No. 03 2000 110923,
3 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
4 sections 11507.5, 11507.6, and 11507.7 to both Respondent's address of record with the
5 Division, which was and is 1701 Marshall Road, #282, Vacaville, CA 95687, and to
6 Respondent's last known address which he reported to the Marin County Superior Court and at
7 which he accepted service of the Accusation, which was and is 400 Miller Creek Road, San
8 Rafael, CA 94903. A copy of the Accusation, the related documents, and Declaration of
9 Service are attached as Exhibit A, and are incorporated herein by reference.

10 5. The method of notice was reasonably calculated to give the licensee notice
11 and service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c).

13 6. On or about June 27, 2002, Respondent signed a U.S. Postal Service
14 Return Receipt, confirming receipt of the Accusation package at the address of 400 Miller Creek
15 Road, San Rafael, CA 94903. A copy of the signed postal return receipt is attached hereto as
16 Exhibit B and is incorporated herein by reference.

17 7. Business and Professions Code section 118 states, in pertinent part:
18 "(b) The suspension, expiration, or forfeiture by operation of law of a license
19 issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the
20 board or by order of a court of law, or its surrender without the written consent of the board, shall
21 not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the
22 board of its authority to institute or continue a disciplinary proceeding against the licensee upon
23 any ground provided by law or to enter an order suspending or revoking the license or otherwise
24 taking disciplinary action against the license on any such ground."

25 8. Government Code section 11506 states, in pertinent part:

26 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
27 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
28

1 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
2 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

3 9. Respondent failed to file a Notice of Defense within 15 days after service
4 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
5 Accusation No. 03 2000 110923.

6 10. California Government Code section 11520 states, in pertinent part:

7 "(a) If the respondent either fails to file a notice of defense or to appear at the
8 hearing, the agency may take action based upon the respondent's express admissions or
9 upon other evidence and affidavits may be used as evidence without any notice to
10 respondent."

11 11. On August 16, 2002, complainant served a Notice of Default on
12 Respondent by certified mail, at both his address of record and at his last known address,
13 informing him that he must take immediate action for relief from default. A copy of the Notice
14 of Default is attached hereto as Exhibit C and is incorporated herein by reference.

15 12. Pursuant to its authority under Government Code section 11520, the
16 Division finds Respondent is in default. The Division will take action without further hearing
17 and, based on Respondent's express admissions by way of default and the evidence before it,
18 contained in Exhibits A, B, C and D, finds that the allegations in Accusation No. 03 2000 110923
19 are true.

20 DETERMINATION OF ISSUES

21 1. Based on the foregoing findings of fact, Respondent Cecil Everett Oakes,
22 Jr. has subjected his Physician's and Surgeon's Certificate No. C43319 to discipline.

23 2. Service of the Accusation was proper and in accordance with the law,
24 satisfying the requirements of Section 11505 of the Government Code. A copy of the Accusation
25 and the related documents and Declaration of Service are attached as Exhibit A and incorporated
26 herein by reference.

27 3. The Division of Medical Quality of the Medical Board of California (the
28 "Division") has jurisdiction to adjudicate this case by default.

1 4. The Division is authorized to revoke Respondent's Physician's and
2 Surgeon's Certificate based upon respondent's conduct and the violations alleged in the
3 Accusation and finds the allegations are true, and as set forth in the Accusation, in the
4 Declaration of Ted Maurino, in the evidence contained in the investigation reports, incorporated
5 herein by reference, and as set forth below:

6 a. Practicing medicine without a valid license (Bus. & Prof. Code §§2234,
7 2052, 2053, and Health & Safety Code §11171);

8 b. Gross negligence and/or repeated negligent acts, unlawful prescribing of
9 controlled substances and/or prescribing without a medical examination or medical indication
10 (Bus. & Prof. Code §§2234(b) and/or (c), 2242(a), and Health & Safety §§11153(a), 11171,
11 11210);

12 c. Unprofessional conduct for ethical violations, boundary violations (Bus. &
13 Prof. Code §§ 2234 (b) and/or (c));

14 d. Unprofessional conduct for ethical violations, violations of professional
15 confidence (Bus. & Prof. Code §§2234 and 2263);

16 e. Unprofessional conduct through gross negligence and/or repeated
17 negligent acts for failure to maintain and/or to produce medical records (Bus. & Prof. Code
18 §§2234(b) and/or (c), 2238, 2266, and Health & Safety Code §11171);

19 f. Unprofessional conduct through dishonest acts (Bus. & Prof. Code
20 §2234(e)); and,

21 g. Failure to maintain a current business address (Bus. & Prof. Code §§2234
22 and 2021.

23 5. Respondent's license is subject to disciplinary action for the reasons stated
24 herein and in the Accusation and cause for revocation is established.

25 6. Complainant has incurred \$19,836.67 in investigation costs and
26 \$11,228.00 in enforcement costs, including attorneys' fees, which costs were reasonably incurred
27 in the prosecution of the case. Declarations of the actual costs incurred in this case are attached
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1 hereto as Exhibit E. Complainant is entitled to recover said costs from respondent upon further
2 order from an Administrative Law Judge.

3 ORDER

4 WHEREFORE, IT IS SO ORDERED that:

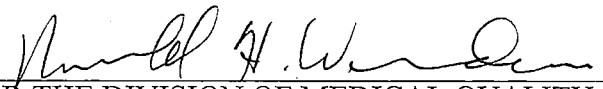
5 1. Physician's and Surgeon's Certificate No. C43319 heretofore issued to
6 Respondent Cecil Everett Oakes, Jr. is revoked, separately and severally, as to each of the
7 Determination of Issues 1 through 6 set forth above.

8 2. Respondent shall pay reasonable costs of enforcement as set forth in the
9 Determination of Issues No. 6 above.

10 3. Pursuant to Government Code section 11520, subdivision (c), Respondent
11 may serve a written motion requesting that the Decision be vacated and stating the grounds relied
12 on within seven (7) days after service of the Decision on Respondent. The agency in its
13 discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in
14 the statute.

15 This Decision shall become effective on December 19, 2002.

16 It is so ORDERED the 19th day of November, 2002.

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18 
19 FOR THE DIVISION OF MEDICAL QUALITY
20 MEDICAL BOARD OF CALIFORNIA
21 DEPARTMENT OF CONSUMER AFFAIRS
22 RONALD H. WENDER, M.D., CHAIR, PANEL B

23 Attachments:

24 Exhibit A: Accusation No.03 2000 110923, Related Documents, and Declaration of Service
25 Exhibit B: Postal Return Documents
26 Exhibit C: Notice of Default
27 Exhibit D: Declaration of Senior Investigator Ted Maurino
28 Exhibit E: Declarations of Costs

DOJ 03573160-SF2001AD1450

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BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 03 2000 110923

CECIL EVERETT OAKES, JR.
1701 Marshall Road, #282
Vacaville, CA 95687

ACCUSATION

Physician's and Surgeon's Certificate No. C43319

Respondent.

Complainant alleges:

PARTIES

1. Ron Joseph (Complainant) brings this Accusation solely in his official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about October 11, 1955, the Medical Board of California issued Physician's and Surgeon's Certificate Number C43319 to Cecil Everett Oakes, Jr. (Respondent). Respondent's Physician's and Surgeon's Certificate expired on April 30, 1999, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Division of Medical Quality, Medical Board of California (Division), under the authority of the following sections of the Business and Professions Code (Code).

4. Section 118 of the Code states, in pertinent part:

"(b) The . . . expiration, or forfeiture by operation of law of a license issued by a board in the department . . . shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

5. Section 2021 of the Code states:

"(a) If the board publishes a directory pursuant to Section 112, it may require persons licensed pursuant to this chapter [Chapter 5, the Medical Practice Act] to furnish any information as it may deem necessary to enable it to compile the directory.

"(b) Each licensee shall report to the board each and every change of address within 30 days after each change, giving both the old and new address. If an address reported to the board at the time of application for licensure or subsequently is a post office box, the applicant shall also provide the board with a street address. If the other address is the licensee's address of record, he or she may request that the second address not be disclosed to the public.

"(c) Each licensee shall report to the board each and every change of name within 30 days after each change, giving both the old and new names."

6. Section 2052 of the Code states:

"Any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition

1 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended
2 certificate as provided in this chapter [Chapter 5, the Medical Practice Act], or without
3 being authorized to perform such act pursuant to a certificate obtained in accordance with
4 some other provision of law, is guilty of a misdemeanor."

5 7. Section 2053 of the Code states:

6 "Any person who willfully, under circumstances or conditions which cause or
7 create risk of great bodily harm, serious physical or mental illness, or death, practices or
8 attempts to practice, or advertises or holds himself or herself out as practicing, any system
9 or mode of treating the sick or afflicted in this state, or diagnoses, treats, operates for, or
10 prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or
11 other physical or mental condition of any person, without having at the time of so doing a
12 valid, unrevoked and unsuspended certificate as provided in this chapter [Chapter 5, the
13 Medical Practice Act], or without being authorized to perform that act pursuant to a
14 certificate obtained in accordance with some other provision of law, is punishable by
15 imprisonment in the county jail for not exceeding one year or in the state prison.

16 "The remedy provided in this section shall not preclude any other remedy
17 provided by law."

18 8. Section 2234 of the Code states:

19 "The Division of Medical Quality shall take action against any licensee who is
20 charged with unprofessional conduct. In addition to other provisions of this article,
21 unprofessional conduct includes, but is not limited to, the following:

22 "(a) Violating or attempting to violate, directly or indirectly, or assisting in or
23 abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter
24 5, the Medical Practice Act].

25 "(b) Gross negligence.

26 "(c) Repeated negligent acts.

27 "(d) Incompetence.

1 "(e) The commission of any act involving dishonesty or corruption which is
2 substantially related to the qualifications, functions, or duties of a physician and surgeon.

3 "(f) Any action or conduct which would have warranted the denial of a
4 certificate."

5 9. Section 2238 of the Code states:

6 "A violation of any federal statute or federal regulation or any of the statutes or
7 regulations of this state regulating dangerous drugs or controlled substances constitutes
8 unprofessional conduct."

9 10. Section 4021 of the Code defines "controlled substance" as any substance
10 listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety
11 Code.

12 11. Section 4022 of the Code defines "'dangerous drug" as any drug unsafe for
13 self-use which includes any drug that federal law prohibits dispensing without prescription.

14 12. Section 2242(a) of the Code states:

15 "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section
16 4022 without a good faith prior examination and medical indication therefor, constitutes
17 unprofessional conduct."

18 13. Section 2263 of the Code states: "The willful, unauthorized violation of
19 professional confidence constitutes unprofessional conduct."

20 14. Section 2266 of the Code states: "The failure of a physician and surgeon to
21 maintain adequate and accurate records relating to the provision of services to their patients
22 constitutes unprofessional conduct."

23 15. Section 2427 provides, in part, that:

24 "(a) Except as provided in Section 2429, a license which has expired may be
25 renewed at any time within five years after its expiration on filing an application for
26 renewal on a form prescribed by the licensing authority and payment of all accrued
27 renewal fees and any other fees required by Section 2424. If the license is not renewed
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1 within 30 days after its expiration, the licensee, as a condition precedent to renewal, shall
2 also pay the prescribed delinquency fee, if any."

3 16. Section 123110 of the Health and Safety Code states, in part, that:

4 "(a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and
5 except as provided in Sections 123115 and 123210, any adult patient of a health care
6 provider, any minor patient authorized by law to consent to medical treatment, and any
7 patient representative shall be entitled to inspect patient records upon presenting to the
8 health care provider a written request for those records and upon payment of reasonable
9 clerical costs incurred in locating and making the records available. . . . A health care
10 provider shall permit this inspection during business hours within five working days after
11 receipt of the written request. . . .

12 "(f) Any health care provider . . . who willfully violates this chapter is guilty of
13 unprofessional conduct."

14 17. Section 14124.12 of the Welfare and Institutions Code states, in pertinent
15 part:

16 "(a) Upon receipt of written notice from the Medical Board of California, the
17 Osteopathic Medical Board of California, or the Board of Dental Examiners of California,
18 that a licensee's license has been placed on probation as a result of a disciplinary action,
19 the department may not reimburse any Medi-Cal claim for the type of surgical service or
20 invasive procedure that gave rise to the probation, including any dental surgery or
21 invasive procedure, that was performed by the licensee on or after the effective date of
22 probation and until the termination of all probationary terms and conditions or until the
23 probationary period has ended, whichever occurs first. This section shall apply except in
24 any case in which the relevant licensing board determines that compelling circumstances
25 warrant the continued reimbursement during the probationary period of any Medi-Cal
26 claim, including any claim for dental services, as so described. In such a case, the
27 department shall continue to reimburse the licensee for all procedures, except for those
28 invasive or surgical procedures for which the licensee was placed on probation."

1 COST RECOVERY

2 18. Section 125.3 of the Code provides, in pertinent part, that the Division
3 may request the administrative law judge to direct a licensee found to have committed a
4 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
5 investigation and enforcement of the case.

6 UNIFORM CONTROLLED SUBSTANCES ACT

7 19. Section 11007 of the California Health and Safety Code¹ defines a
8 "controlled substance", in pertinent part, as a drug included in Schedules I through V, inclusive,
9 pursuant to Health and Safety Code §§ 11054 through 11058.

10 20. Section 11055 of the Health and Safety Code sets forth Schedule II
11 controlled substances. It states, in pertinent part:

12 "(d) Stimulants. Unless specifically excepted or unless listed in another schedule,
13 any material, compound, mixture, or preparation which contains any quantity of the following
14 substances having stimulant effect on the central nervous system:

15 (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers. . .

16 (6) Methylphenidate."

17 21. Section 11153(a) of the Health and Safety Code states, in part, that a
18 prescription for a controlled substance shall only be issued for a legitimate medical purpose by
19 an individual practitioner acting in the usual course of his or her professional practice.

20 22. Section 11171 of the Health and Safety Code states that no person shall
21 prescribe, administer, or furnish a controlled substance except under the conditions and in the
22 manner provided by this division.

23 23. Section 11210 of the Health and Safety Code provides, in pertinent part,
24 that a physician shall prescribe, furnish, or administer controlled substances only in the
25 quantity and for the length of time as are reasonably necessary.

26
27
28 1. Hereinafter referred to as the "Health and Safety Code".

CONTROLLED SUBSTANCES/DANGEROUS DRUGS INVOLVED

24. Adderall (amphetamine) is a Schedule II controlled substance as defined in Health and Safety Code § 11055(d)(1) and is a dangerous drug as defined by section 4022 of the Business and Professions Code. It is prescribed as part of a total treatment program for Attention Deficit Disorder ("ADD") with Hyperactivity.

25. Dexedrine or Dexedrine Spansule (dextroamphetamine sulfate) is a Schedule II controlled substance as defined in Health and Safety Code § 11055(d)(1) and is a dangerous drug as defined by section 4022 of the Business and Professions Code. It is used in the treatment of narcolepsy and as part of a total treatment program for ADD with Hyperactivity.

26. Ritalin (methylphenidate HCL) is a Schedule II controlled substance as defined in Health and Safety Code § 11055(d)(1) and is a dangerous drug as defined by section 4022 of the Business and Professions Code. It is used in the treatment of narcolepsy and as part of a total treatment program for ADD with Hyperactivity.

27. Clonidine Hydrochloride (aka Catapres) is a dangerous drug, as defined by section 4022 of the Business and Professions Code and is used for the treatment of hypertension.

28. Effexor or Effexor XR (venlafaxine hydrochloride) is a dangerous drug, as defined by section 4022 of the Business and Professions Code and is used for the treatment of depression.

29. Neurontin (gabapentin) is a dangerous drug, as defined by section 4022 of the Business and Professions Code. It is used as adjunctive therapy in the treatment of partial seizures in patients with epilepsy.

30. Trazodone (aka Desyrel) is a dangerous drug, as defined by section 4022 of the Business and Professions Code and is used for the treatment of depression.

31. Zoloft (sertraline hydrochloride) is a dangerous drug, as defined by section 4022 of the Business and Professions Code. It is used for the treatment of major depressive disorder, obsessive-compulsive disorder, panic disorder, and post-traumatic stress disorder.

1 FIRST CAUSE FOR DISCIPLINE

2 (Practicing Medicine Without A Valid License)

3 32. At all times relevant herein, respondent's license to practice medicine
4 expired on **April 30, 1999** and has not been renewed. The Medical Board mailed a license
5 renewal notice on 1/5/1999 and a delinquent notice on 6/12/1999 to respondent's address of
6 record. Both notices were returned as undeliverable by the U.S. Mail. Respondent's address of
7 record with the Board was, and remains: 1701 Marshall Road #282, Vacaville, CA 95687.

8 33. On June 17, 1999, respondent was issued Citation No. 20-1999-98181 by
9 the Board and fined \$200 for failure to report a change of address. Respondent has never
10 responded to the citation, has not paid the fine, and has provided no other address of record.
11 Respondent was also cited in June 1996 for failure to report a change of address to the Medical
12 Board in 1995, which was resolved by compliance with an order of abatement.

13 34. On or about April 7, 1998, the Drug Enforcement Agency ("DEA")
14 assigned registration B05781390 to respondent with the restriction that respondent issue
15 prescriptions for only Schedule II non-narcotics and Schedule IV controlled substances.
16 Respondent's DEA registration expired on December 31, 2000 and was not renewed.

17 35. Respondent is subject to disciplinary action under sections 2234, 2052 and
18 2053 of the Business and Professions Code and section 11171 of the Health and Safety Code in
19 that respondent practiced medicine without a valid license after April 30, 1999, including the
20 issuing of numerous prescriptions for controlled substances and/or dangerous drugs, as detailed
21 below.

22 PATIENT M.M.

23 36. On or about January 31, 2000, long after his license had expired on April
24 30, 1999, respondent first saw patient M.M.(DOB [REDACTED]) at respondent's apartment in San
25 Francisco. During the initial visit, which lasted about 90 minutes, respondent did not conduct a
26 physical examination but instead asked questions of patient M.M.'s mother. Respondent
27 diagnosed patient M.M. with Attention Deficit Disorder ("ADD").
28

1 37. Respondent ordered that a "Spec Scan" test be done at The Amen Clinic
2 for Behavioral Medicine, Inc. in Fairfield (the "Amen Clinic"), where respondent formerly
3 worked. The cost to the patient for the initial visit to respondent was \$300 and the Spec Scan
4 cost about \$1,000. Respondent telephoned patient M.M.'s mother with the results of the Spec
5 Scan and charged \$125 to interpret the Spec Scan report. Patient M.M.'s mother asked
6 respondent for a hard copy of the Spec Scan test results. Respondent never provided a hard copy
7 of the report.

8 38. Starting in or about February 2000, patient M.M. saw respondent about
9 every other weekend, Friday or Saturday, in Fresno at the office of Dr. Lester, an orthopedic
10 surgeon. Respondent generally charged about \$65 - \$75 an office visit.

11 39. On or about April 22, 2000, respondent prescribed to patient M.M. #120 -
12 5 mg. of Adderall.

13 40. On or about June 9, 2000, patient M.M.'s mother spoke by telephone with
14 respondent and requested a copy of her daughter's medical records. Respondent never produced
15 a copy of the medical records.

16 41. Also during that same telephone conversation, the patient's mother asked
17 respondent about the status of his medical license. Respondent assured her that he had a meeting
18 about a week before with someone at the Medical Board and that he was licensed.

19 42. On about June 19, 2000, patient M.M.'s mother called respondent's S.F.
20 office and discovered that the telephone was disconnected. She then called the Fresno surgeon's
21 office trying to reach respondent and was told that they did not know of a way to reach
22 respondent.

23 PATIENTS W.D., J.D., AND M.D.

24 43. In or about early 2000, long after his license had expired on April 30,
25 1999, respondent began to treat patient W.D. and her two sons J.D. (DOB [REDACTED]) and M.D.
26 (DOB [REDACTED]) for Attention Deficit Disorder ("ADD"). Respondent saw these three patients
27 on weekends at an orthopedic surgeon's office in Fresno.
28

1 44. Respondent first saw patient M.D. on or about January 21, 2000. During
2 the initial examination, respondent asked the patient a series of questions but did not conduct a
3 physical examination. Respondent ordered a Spec Scan at the Amen Clinic in Fairfield, which
4 occurred on or about 2/18/00 and cost the patient about \$900.

5 45. Respondent prescribed Adderall, a Schedule II controlled substance, to
6 patient M.D. as follows: #120 – 5 mg. on 5/12/2000 and on 5/27/2000. Respondent prescribed
7 Zoloft to patient M.D. as follows: 3/4/2000: #30 – 25 mg.; 4/15/2000: #60 – 20 mg.; and
8 7/02/2000: #30 – 25 mg.. Also, on or about 7/02/2000 respondent prescribed #60 – 0.1 mg. of
9 Clonidine HCL to patient M.D..

10 46. For patient J.D., respondent prescribed # 120 – 5 mg. of Adderall on or
11 about 5/17/2000 and #30 – 50 mg. of Zoloft on or about 6/15/2000.

12 47. On or about February 4, 2000, when respondent first saw patient W.D., the
13 mother of two of his patients, respondent did not conduct a physical examination yet diagnosed
14 patient W.D. with ADD.

15 48. In or about April 2000, respondent ordered a "Spec Scan" for patient WD.

16 49. Respondent prescribed Adderall to patient W.D. on or about the dates as
17 follows: 2/11/2000: #100 – 5 mg.; 3/4/2000: #60 – 20 mg.; 5/17/2000: #60 – 20 mg.; and,
18 6/15/2000: #150 – 10 mg.. In addition, respondent prescribed for patient W.D. #30 – 75 mg. of
19 Effexor XR on or about 6/24/2000 and #90 – 300 mg. of Neurontin on or about 6/01/2000.

20 50. During patient W.D.'s visits and those of her sons J.D. and M.D.,
21 respondent did not conduct any physical examinations and did not use any medical equipment,
22 not even a blood pressure cuff, and none was visible in the office where they were seen.

23 51. During one visit, patient W.D. told respondent that she had high blood
24 pressure and was concerned about using Zoloft. Respondent did not obtain the patient's blood
25 pressure but instead told the patient that she should get a blood pressure cuff and monitor her
26 own blood pressure.

27 52. Also, respondent had no records of previous visits so that he would ask
28 patient W.D. what drugs he prescribed to her and her sons at the last visit.

Patient T.A.

53. On or about July 29, 2000, long after his license expired on April 30, 1999, respondent met patient T.A., an adult male whom he had previously diagnosed with ADD without proper examination, at a restaurant in San Jose in order to give patient T.A. a prescription for Adderall. During their 7/29/2000 meeting, patient T.A. asked respondent about the status of his medical license and respondent told the patient that he was still licensed to practice medicine.

54. For patient T.A., respondent prescribed Adderall on or about the following dates, without conducting a physical examination: 9/19/1999: #60 - 20 mg.; 11/04/1999: #60 - 20 mg.; 12/05/1999: #60 - 30 mg.; 3/15/2000: #120 - 20 mg.; 5/25/2000: #120-20 mg.; 5/25/2000: #60 - 5 mg..

Patients S.H. and N.H.

55. In or about January or February 2000, long after his license expired on April 30, 1999, respondent began to see patient S.H. and her daughter N.H. (DOB [REDACTED]) as patients. They saw respondent about every two weeks, either on a Friday or Saturday, in an orthopedics surgeon's office in Fresno.

56. Patient N.H.'s first visit was on or about February 4, 2000. The initial visit lasted about 2-1/2 hours and consisted of questions and answers. Respondent did not conduct a physical examination. Respondent charged \$300 for the initial visit and ordered a "Spec Scan" from the Amen Clinic in Fairfield.

57. Respondent diagnosed both patient S.H. and patient N.H. with ADD. Respondent prescribed Adderall to patient S.H. on or about the following dates: 3/31/2000: #120 - 5 mg.; 5/31/2000: #60 - 20 mg.; and 6/23/2000: #150 - 10 mg..

58. On or about June 5, 2000, patient S.H. tried to reach respondent at the Fresno surgeon's office but learned that the telephone number was disconnected. Respondent later telephoned patient S.H. to confirm that he would keep their 6/9/2000 appointment. Patient S.H. asked respondent about the status of his medical license and he told her that he was trying to straighten out why the Medical Board was listing him as unlicensed.

Patient J.P.

59. Beginning in or about August 1999, after his license had expired on April 30, 1999, respondent saw patient J.P. (DOB [REDACTED]) with his mother L.P. about once a month for at least ten months. At the beginning, respondent saw patient J.P. at the home of a Marriage, Family and Children Counselor in Fresno. In or about January 2000, respondent changed locations and saw patient J.P. at the office of an orthopedic surgeon in Fresno. Without performing a physical examination, respondent diagnosed patient J.P. with ADD.

60. On or about February 2000, respondent ordered a "Spec Scan" test for patient J.P..

61. Respondent prescribed the following controlled substances for patient J.P. on or about the dates as follows: 9/18/1999: #100 – 5mg. Adderall; 5/13/2000: #120 – 5 mg. Adderall; 6/23/2000: #60 – 20 mg. Adderall, and #120 – 10 mg. Dexedrine Spansules each on 12/03/1999; 1/21/2000; 4/18/2000; and on 6/23/2000.

Patients K.C., S.C., D.C., and C.C.

62. Starting in or about March 2000, long after his license expired on April 30, 1999, respondent saw and treated a father, patient K.C., and his two sons, patient S.C. (DOB [REDACTED]) and patient D.C. (DOB [REDACTED]) for ADD. Respondent diagnosed them with ADD without performing physical examinations.

63. Respondent ordered "Spec Scan" tests for all three patients. Respondent telephoned the test results to the patients. Patient K.C. asked respondent for a hard copy of the test reports but respondent never provided them.

64. Respondent prescribed the following on or about the dates indicated to patient K.C.: 5/05/2000: #60 – 10 mg. Adderall; 7/01/2000: #60 – 20 mg. Adderall; 6/24/2000: #30 – 50 mg. Zoloft; and 7/07/2000: #30 – 50 mg. Zoloft.

65. Respondent prescribed the following on or about the dates indicated for patient D.C.: 6/09/2000: #30 – 75 mg. Effexor XR; and 07/07/2000: #30 – 75 mg. Effexor XR.

66. Respondent prescribed the following on or about the dates indicated to patient S.C.: 5/28/2000: #120 – 5 mg. Adderall; and 07/01/2000: #60 – 20 mg. Adderall.

1 67. Respondent also prescribed #120 – 5 mg. Adderall for the mother, patient
2 C.C., on or about 6/9/2000, without conducting an appropriate physical examination.

3 Patient R.T.

4 68. On or about June 10, 2000, long after his license expired on April 30,
5 1999, respondent first saw patient R.T., an adult male, at an orthopedic surgeon's office in
6 Fresno. The initial evaluation lasted about 75 minutes but did not consist of a physical
7 examination and cost about \$300. Respondent diagnosed patient R.T. with ADD and ordered a
8 "Spec Scan" from the Amen Clinic. On or about that same day, respondent prescribed to patient
9 R.T. #120 – 5 mg. of Adderall.

10 Patients G.G. and J.G.

11 69. Sometime in or about 1998, respondent began to see patient G.G. whom
12 he diagnosed with ADD. After his license expired on April 30, 1999, respondent prescribed
13 Adderall on or about the dates indicated for patient G.G. and/or his son patient J.G.: 05/06/1999:
14 #240 – 20 mg. and #180 – 20 mg.; 06/25/1999: #240 – 20 mg. and #180 – 20 mg.; 08/29/1999:
15 #240 – 20 mg. and #255 – 20 mg.; and, 11/01/1999: #240 – 20 mg. and #255 – 20 mg..

16 70. After his license expired on April 30, 1999, respondent prescribed
17 Adderall on or about the dates indicated for patient G.G.: 01/14/2000: #240 – 20 mg.;
18 03/10/2000: #240 – 20 mg.; and, 08/08/2000: #240 – 20 mg..

19 71. After his license expired on April 30, 1999, respondent prescribed the
20 dangerous drug Effexor on or about the following dates for patient G.G.: 3/18/2000: #60 – 37.5
21 mg.; 4/11/2000: #60 – 37.5 mg.; 5/04/2000: #60 – 37.5 mg.; 6/08/2000: #60 – 37.5 mg.;
22 7/19/2000: #60 – 37.5 mg.; 8/28/2000: #60 – 37.5 mg.; 10/08/2000: #60 – 37.5 mg.; 11/12/2000:
23 #60 – 37.5 mg.; 12/06/2000: #60 – 37.5 mg..

24 72. Sometime in or about 1999, respondent began treating patient J.G. (DOB
25 08/13/1964), the son of patient G.G., for ADD. After his license expired on April 30, 1999,
26 respondent prescribed the following controlled substances for patient J.G.: 01/14/2000: #240 –
27 20 mg. Adderall; 01/18/2000: 100 – 5 mg. Dexedrine Spansules; 03/10/2000: #180 – 15 mg.

1 Dexedrine Spansules; 04/19/2000: #300 - 15 mg. Dexedrine Spansules; 07/04/2000: #180 - 15
2 mg. Dexedrine Spansules.

3 73. After his license expired on April 30, 1999, Respondent prescribed the
4 dangerous drug Trazodone on or about the dates indicated for patient J.G.: 07/05/2000: #30 - 50
5 mg.; 07/24/2000: #30 - 50 mg.; 08/11/2000: #30 - 50 mg.; 09/12/2000: #30 - 50 mg.;
6 10/26/2000: #30 - 50 mg.; 12/05/2000: #30 - 50 mg.; 12/31/00: #30 - 50 mg.; 1/13/2001: #30 -
7 50 mg.; 1/21/2001: #60 - 100 mg..

8 Additional Unlicensed Practice/Unlawful Prescribing

9 74. In addition to those patients identified herein, respondent continued to
10 issue numerous prescriptions for dangerous drugs and controlled substances after his license to
11 practice medicine expired on April 30, 1999. For example, from about May 1, 1999 until about
12 July 30, 2000, respondent issued approximately 737 prescriptions for controlled substances to
13 about 147 different patients, not including those identified herein, located throughout California.
14 Said prescriptions were for either Adderall, Dexedrine Spansules, or Ritalin.

15 SECOND CAUSE FOR DISCIPLINE

16 (Gross Negligence/Repeated Negligent Acts; Unlawful Prescribing of Controlled
17 Substances; and/or Prescribing without a Medical Examination or Medical Indication)

18 75. Respondent is subject to disciplinary action under sections 2234(b) and/or
19 (c), 2238 and 2242(a) of the Business and Professions Code and sections 11153(a), 11171, and
20 11210 of the Health & Safety Code in that respondent is guilty of gross negligence and/or
21 repeated negligent acts for prescribing controlled substances and/or dangerous drugs without a
22 prior good faith medical examination and medical indication therefor and for diagnosing ADD
23 without conducting an appropriate physical examination, as detailed herein.

24 76. The allegations in paragraphs 36 through 73 are incorporated herein as if
25 fully set forth.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct/Ethical Violations: Boundary Violations)

3 77. Respondent is subject to disciplinary action under sections 2234(b) and/or
4 (c) in that respondent is guilty of unprofessional conduct, gross negligence and/or repeated
5 negligent acts in that respondent crossed professional/ethical boundaries in the physician-patient
6 relationship by, on several occasions requesting a loan of money from patients and by residing
7 with patients whom he was treating. The circumstances are detailed below.

8 78. In or about April 2000, respondent asked patient W.D., whom he was
9 treating, for a \$6,000 loan and told her that he had personal problems and needed money.
10 Respondent also told the patient that he was setting up a clinic and needed investors.
11 Respondent's request was denied.

12 79. In or about May 2000, respondent telephoned patient W.D. and again
13 asked to borrow money, this time \$12,000 which respondent said he needed because he was
14 being evicted from his San Francisco apartment. Respondent's request was denied.

15 80. In or about June 2000, respondent stayed at the guest house of patient
16 W.D. for about four days. Respondent asked patient W.D. and her husband for money and
17 offered to discount her family's medical treatments for allowing him to stay at her house. Patient
18 W.D. declined respondent's request for money and offer for a discount of services.

19 81. Starting in or about December 2000, respondent resided at the home of
20 patient G.G. while respondent was treating patient G.G. and his son.

21 FOURTH CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct/Ethical Violations: Violations of Professional Confidence)

23 82. Respondent is subject to disciplinary action under sections 2234 and 2263
24 in that respondent is guilty of unprofessional conduct and/or gross negligence and/or repeated
25 negligent acts in that respondent on several occasions violated his professional confidence by
26 disclosing the names of patients and their treatments to other third parties. The circumstances are
27 detailed below.

83. Sometime after January 2000, without the knowledge or consent of the patient, respondent revealed to patient L.P.'s son and to patient L.P.'s estranged ex-husband that he was treating patient L.P. for Attention Deficit Disorder.

84. In or about May 2000, respondent revealed to patient L.P. that he was treating a physician's adult son, whom patient L.P. knew personally, for ADD.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Gross Negligence and/or Repeated Negligent Acts:
Failure to Maintain and/or to Produce Medical Records)

85. Respondent is subject to disciplinary action under sections 2234(b) and/or (c), 2238, 2266 and section 11171 of the Health and Safety Code in that respondent is guilty of unprofessional conduct and/or gross negligence and/or repeated negligent acts for his failure to maintain and/or failure to produce medical records upon patient request. The circumstances are detailed below.

86. The allegations in paragraphs 36 through 74 are incorporated herein as if fully set forth. Respondent failed to maintain medical records on all patients seen after April 30, 1999.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dishonest Acts)

87. Respondent is subject to disciplinary action under section 2234(e) in that respondent is guilty of unprofessional conduct through dishonest and/or corrupt acts for not informing patients, after April 30, 1999, that his license had expired and was no longer valid and for lying to patients who inquired about his license status after April 30, 1999 by telling them that he had a valid license to practice medicine. The circumstances are detailed below.

88. The allegations in paragraphs 41, 53, and 58 are incorporated herein as if fully set forth.

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